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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,866	09/12/2000	Scott J. Jones	GOLDENH.001C1	2541
20995	7590	01/21/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			THOMAS, JOSEPH	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/659,866

Applicant(s)

JONES ET AL.

Examiner

Joseph Thomas

Art Unit

3626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 2-19.

Claim(s) withdrawn from consideration: NONE.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER

Continuation of 2. NOTE: Newly proposed claims 20-26 have been submitted; however, a corresponding number of rejected claims HAVE NOT BEEN canceled .

Continuation of 5. does NOT place the application in condition for allowance because:

I. The affidavit is insufficient to remove the Aeromed reference for the following reasons: It is not timely filed. The Aeromed reference was applied in the rejections mailed on 07 May 2003 and on 21 September 2004. However, these materials (affidavits and exhibits) are only presented after Final Rejection. Please note MPEP 715.09.

II. Applicant's argument that the applied prior art fails to disclose "instructions for determining whether the actual flight path varies from the calculated flight path" is not persuasive. In particular, Applicant apparently fails to appreciate the breadth of the present claims. All the art need show is the tracking of a flight plan and a simple determination whether the flight plan has been varied or not. In other words, a simple yes/no decision would suffice as the claimed "determining". Insofar as Nathanson discloses the calculation of a minimum path algorithm and the calculation of an estimated travel time, and Schriever discloses the use of on-board color weather radar and global positioning system computers on flights (see Schriever; page 1, lines 30-31; i.e., a form of tracking system) it is respectfully submitted that the skilled artisan would readily recognize that any deviation between the calculated data and the tracked data would readily serve as a determination that the actual flight path varied from the calculated flight path. As such, it is respectfully submitted that Applicant fails to consider the full teachings of the applied references, when properly considered together as a whole.